IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1778 OF 2006

Mr.Jotiram Laxman Devkule ..Petitioner.

Vs.

Union of India, Mumbai & Ors. ..Respondents.

Mrs.B.P.Jakhade for the Petitioner.

Mrs.L.B.Patne with Mr.G.Hariharan for Respondent Nos.1 to 3.

CORAM: F.I. REBELLO AND
R.M. SAWANT, JJ.
DATED: 5TH MARCH, 2007.

P.C. :

The Petitioner was in the service of the territorial army. In terms of the service certificate, the Petitioner put in embodied service of 11 years, 9 months and unembodied service of 3 years, 3 months and 17 days. The Petitioner has approached this Court on the ground that he has put in more than 15 years of service and, as such, he is entitled to pension.

2. The Respondents have filed their reply and have

pointed out that the Petitioner has put in only 11 years and 9 months as embodied service. Our attention has been invited to ‘Appendix XXVII’ which provides for grant of service pension other than to Government Servants and Civil Pensioners. It is therein set out that service pension to TA Officers, who, in the case of JCOs/ORs must have put in 15 years of embodied service.

3. Sub-Rule 1(c) sets out that the embodied service must be continuous or rendered in broken spells. For calculating the total embodied service, the breaks in embodied service due to disembodiment, will be treated as condoned but the period of breaks itself will not be treated as qualifying service for pension. In other words, the period of disembodiment is not to be counted for calculating the period for pension. In terms of the certificate Exhibit "A" to the petition, it would be clear that the Petitioner put in embodied service of 11 years 9 months only and, consequently, he is not entitled to pension

under the relevant rules.

4. In the light of that, no case is made out for exercise of extra ordinary jurisdiction.

Petition is dismissed.

(R.M. SAWANT, J.) **(F.I. REBELLO, J.)**